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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/659,416

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Arto Astala

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23860

7590

10/28/2005

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EXAMINER

NGUYEN, PHUOC H

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,416

Applicant(s)

ASTALA ET AL.

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-50 and 66-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-50 and 66-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Amendment received on August 5, 2005 has been entered into record.
3. Claims 47-50 and 66-75 remain pending.

Response to Amendment

4. This office action is in response to the applicants Amendment filed on August 5, 2005. Claims 47-50 and 66-75 have been amended. Claims 47-50 and 66-75 are presented for further consideration and examination.
5. Applicant's arguments with respect to claims 47-50 and 66-75 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 47 rejected under 35 U.S.C. 102(b) as being anticipated by Guarneri et al.

(Hereafter, Guarneri) U.S. Patent 5,724,345.

7. Regarding claims 47, 49, and 66-75 Guarneri discloses a method to activate a configuration tool in a configuration server for managing a configurable controlling function of a terminal system (Abstract; Figures 19-20) comprising steps of receiving a configuration upgrade message at the configuration server (e.g. SCANS) from a source of an at least partial software upgrade (col. 12 lines 14-18); saving upgrade information in a database associated with the configuration server (e.g. SCAN receives the data (e.g. upgrade software) and process the data then transmit it to the terminal servers (e.g. switching systems) and capable of retransmitting the data if the error is detected, col. 6 lines 12-23 which is inherently to have a storage or database to store the data for the retransmission); identifying a plurality of users requiring at least partial software upgrade, and thereafter providing the at least partial software upgrade to respective terminal servers associated with the plurality of users identified to require the at least partial software upgrade for subsequent distribution by the terminal servers to respective terminals of users identified to require the at least partial software upgrade (e.g. SCANS transmits the software upgrade to the terminal server to distribute the plurality end subscriber that require the software upgrade; Figure 19-20; col. 12 lines 13-50).

8. Regarding claim 48, Guarneri further discloses updating at least one terminal associated with a respective terminal server with the at least partial software upgrade provided to the terminal server (col. 12 lines 13-50).

Art Unit: 2143

9. Regarding claims 66-67, and 68-69, Guarneri further discloses identifying any terminal servers, following the provision of the at least partial software upgrade to which the at least partial software upgrade/product information has not yet been transferred, and determining, in response to activation of a terminal associated with a terminal server, if the terminal server has been identified as a terminal server to which the at least partial software upgrade/product information has not yet been transferred and, if so, providing the at least partial software upgrade/product information to the terminal server (e.g. When SCANS detected that the error or the upgrade software has not received by the terminal server it then retransmits the software upgrade to the terminal servers (e.g. switching systems), col. 6 lines 12-23, and col. 7 lines 52 through col. 8 lines 1).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guarneri in view Kyle U.S. Patent 6,141,681.

Guarneri teaches the end service product is transferred to the terminal server; however, Moles fails to teach virus search is made to the end service product prior to conveying the product to the terminal server.

Kyle teaches virus search is made to the end service product prior to conveying the product to the terminal server (Figure 8; and col. 6 lines 8-17).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Kyle's teaching into Guarneri's method to provide virus search prior to receive the packet in order to protect the server from viruses and prevent it from transmitting itself across the network.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zhao Patent 6,081,840

Cheng et al. U.S. Patent 6,151,643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919.

The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H Nguyen
Examiner
Art Unit 2143

October 19, 2005


